

# ENSURING TRAFFIC SAFETY AS A STATE FUNCTION

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**Annotation.** Based on a comprehensive systematic approach, the article examines issues of legal regulation of road safety through the prism of organizational and legal measures within the framework of state administration activities in conditions of martial law and the negative influence of the aggressor in the context of the Concept of Ensuring the National System of Stability. The object of the study is the set of social relations arising in the field of road safety. The subject of the study is the theoretical, legal, and organizational foundations of road safety and the current state of legal regulation. The methodological basis is the dialectical methodology, which allows studying road safety as a set of social processes and phenomena in their genesis, interdependence, and interconnection. The application of a systematic method of studying legal phenomena made it possible to consider the application of legal regulation in the field of road safety. Analysis of the situation in the field of road safety, including in the transport services market, determines the requirements for economic entities regarding the application of engineering and technical means of safety. A regulatory and legal framework has been established in this area, which serves as the basis for making decisions on ensuring the safety of transport infrastructure from natural and man-made threats and terrorist acts. Improving this framework is a pressing issue for ensuring sustainable economic development and the ability of the state and society to effectively counter threats of armed aggression. Legal means of ensuring road safety are part of state policy in this area of relations, but there are shortcomings in legal regulation that lead to a decrease in the level of safety, which must be promptly addressed and eliminated. It is noted that an important role in ensuring road safety belongs to security providers – state bodies and civil society institutions. The effectiveness of road safety in a state of martial law depends on what forces and means are used and how they are applied.

**Key words:** critical infrastructure, legal regulation, energy security, resilience, physical security.

## 1. Introduction.

The social paradigm of sustainable development of the state, expressed in the Sustainable Development Goals of Ukraine for the period up to 2030 and strategic objectives, necessitates a comprehensive analysis and in-depth study of the chosen research topic, based on modern practice of legal regulation of social relations in the field of road safety and accumulated experience to prevent accidents and preserve the lives and health of people and the property of road users. Despite the existence of diverse scientific research and the significant contribution of scientists to the study of various aspects of road safety, the lack of comprehensive development of the theoretical and organizational and legal foundations of road safety is evident. Contemporary research on road safety issues is largely fragmented, devoted to the discrete consideration of areas of road safety.

## 2. Analysis of scientific publications.

The following researchers have studied the issue of road safety in the legal field: O. Bandurko, M. Kovaliv, A. Komziuk, O. Kuzmenko, M. Kogut, V. Mutsko, O. Ostapenko, O. Salmakova, A. Sobokar, V. Petkov, P. Shcherbakov, and T. Shvets. However, there are no comprehensive works on regulatory and legal support, which prompted the study of this issue.

**3. The purpose of this work** is to study road safety as an administrative and legal category.

#### **4. Review and discussion.**

The definition of «road safety» is not enshrined in the Law «On Road Traffic» and has been covered in detail in legal literature [1]. This concept has undergone some changes after the introduction of automated technologies for traffic management and supervision in the field of road safety, and therefore requires further comprehensive research. The concept of «road safety» includes two main categories: «safety» and «road traffic».

Ukraine's national security strategy defines national security as the state of protection of the country's national interests from internal and external threats, which ensures: the realization of citizens' constitutional rights and freedoms, a decent standard of living and quality of life for citizens, harmony in the country and civil peace; the protection of state sovereignty, independence, and territorial integrity; and the socio-economic development of the country [2].

The legislator left the question of the concept and types of security open and proposed to resolve it with the help of industry-specific regulatory acts. Types of security are reflected in many strategic planning documents: state development strategies, doctrines, concepts, and target programs at various levels.

The goal of ensuring state and public security is achieved through the implementation of state policy aimed, in particular, at improving road safety.

Analyzing laws that regulate various types of security, such as fire, environmental, energy, information, and transport security, it can be argued that at the level of legislative acts in Ukraine, a single, clear understanding of what security is has been formed.

The Law «On Critical Infrastructure» defines critical infrastructure security as the state of protection of critical infrastructure that ensures its sustainable functioning [3].

The Ukrainian national standard DSTU 2935:2018 «Road Safety. Terms and Definitions» defines road safety through the state of protection [4].

An analysis of the concept of «safety» would be incomplete without considering the concept of «transport safety». Life safety as a key social value consists of various components, one of which is transport safety, which is directly related to the development of the economy and social infrastructure. Each state creates an institutional system for ensuring transport safety, involving various state authorities and management bodies in its support.

It should be emphasized that the issue of ensuring transport safety, being logically interrelated with other issues of ensuring social safety, cannot be excluded from the general context of ensuring national security.

Transport security is an integral part of national security. Transport security is understood as a system of social relations related to ensuring the security of individuals, society, and the state in the operation of various types of transport, related to the protection of transport infrastructure and transport from illegal acts of interference, technical, and organizational threats.

The concepts of «vehicle safety» and «transport safety» should be distinguished. The second concept is much broader and includes the safety of transport systems, which should be considered as a comprehensive characteristic of only the vehicle, which determines the ability to transport passengers and cargo without posing a threat to human health and life, while ensuring the safety of cargo, the vehicle, and the environment.

The second basic category of road safety is the term «road traffic» According to the Law «On Road Traffic», road traffic is understood as the totality of social relations that arise in the process of moving people and cargo by means of vehicles within the boundaries of roads.

Road safety is the state of this process, reflecting the degree of protection of its participants from road traffic accidents (hereinafter referred to as RTAs) and their consequences. Analyzing the above definitions, we note that the legislator has not disclosed their full meaning, nor has it highlighted their necessary and sufficient characteristics.

Road traffic is the process of movement on roads, in which the actions of its participants – drivers, pedestrians, and passengers – are determined by special rules. Modern road traffic is the movement of people and goods by mechanical means of transport, regulated by special legal norms, regulated by state bodies, and taking place in conditions of real danger of circumstances arising that prevent the continuation of this process.

Road traffic is a complex dynamic system that includes the spatial movement of people and goods. It is not a spontaneous process, but the result of conscious and controlled activity. It is the process of the functioning of the country's unified road transport system. This necessitates management. The main goal of public administration in the field of road safety is to create effective public management mechanisms that will guarantee the protection of society from road accidents and their social consequences [5, p. 653].

V. Kogut understands road traffic as activities aimed at satisfying personal and social needs for the spatial movement of people, means, and products of labor, based on the use of the technical complex «vehicles – roads», which consists of managing the movement of vehicles, movement on vehicles without driving them or natural pedestrians, uncontrolled movement of mechanical vehicles and subsequent negative consequences in the form of injuries to people and damage to material objects [6, p. 345-346].

It is advisable to consider road traffic in dynamics and in a static state. It is interesting to understand road traffic in a static state as a complex socio-technical system consisting of interdependent subsystems and individual elements.

It is advisable to distinguish three subsystems of the socio-technical system of road traffic: the first is preparation for the process of meeting transport needs in society, consisting of elements of preparation of participants, vehicles, and roads for traffic; the second is road traffic itself; the third is ensuring road safety by state bodies and public associations.

Road traffic, as understood by M. Kiselova, is a set of social relations regulated by normative legal acts and subject to state control, related to the movement of people and goods by means of transport. Road traffic takes place in conditions of constant risk of circumstances that prevent the continuation of movement and negative consequences in the form of death or injury to people, damage to vehicles, structures, cargo, or other material damage [7, p. 458].

Road safety is a social and legal phenomenon, an important condition for achieving the socio-economic well-being of a country, but there are risks caused by objective and subjective factors. The risk in the field of road traffic is associated with the underestimation of the role of civil society institutions and the media (mass media) in shaping law-abiding behavior among road users.

There are risks associated with the decrease in the average age of drivers and the implementation of priority measures that are not timely supported by the regulatory and methodological framework in the area under consideration. These include a range of economic problems in the country that hinder the implementation of necessary measures to improve safety. A significant number of vehicles do not meet modern safety requirements, and there is no effective organizational and legal mechanism for monitoring their technical condition.

Risk factors include driving under the influence of alcohol, exceeding the established speed limit, not using child restraint systems, seat belts, and protective helmets.

The national standard defines «road safety» as a process that reflects the level of protection of participants from road accidents and their consequences. The legislator understands safety as a process, but a process is a dynamic category, a sequential change in any phenomenon, its transition to another state.

If the legislator wanted to emphasize that safety is also a category subject to constant change, it would be better to use the definition “ensuring road safety.” Ensuring road safety is an activity aimed at preventing the causes of road accidents and reducing the severity of their consequences.

Road safety is considered as a sphere of administrative and legal relations and a legal form of activity that represents administrative and legal activities aimed at achieving harmony between the interests and capabilities of road users. These are activities related to the development and implementation of measures to reduce the likelihood of events and the severity of their consequences [8, p. 318].

The sphere of road safety is considered as a socio-technical system consisting of technological, service, and management subsystems. Safety represents the sphere of road traffic, which unites not only social relations related to the implementation of transport needs, but also those that arise at the stage of road traffic preparation.

The systematic approach involves three levels of the road safety system. In particular, the first-level subsystem represents functions aimed directly at meeting the transport needs of society and the spatial movement of passengers and cargo.

The second level is a subsystem that includes the organization and maintenance of road traffic, combining the activities of various institutions, organizations, and enterprises aimed at creating conditions and opportunities for the safe fulfillment of transportation needs. The result of this subsystem’s activities is the determination of the condition of vehicles, the street and road network, and the level of training of road users, vehicle drivers, and National Police patrol officers.

The third level is a subsystem formed by executive authorities that perform state management functions of an industry-specific and inter-industry nature in relation to the subsystems of the first and second levels. The functioning of this subsystem ensures the preparation and adoption of regulatory acts within the limits of its competence, as well as the specific organization of the activities of entities.

The state function of «ensuring road safety» is an internal law enforcement function of the state, the essence of which is the activities of authorized state bodies to protect the rights and legitimate interests of road users by ensuring strict and consistent compliance with road safety legislation aimed at preventing road accidents and reducing the severity of their consequences.

The performance of the state function of «ensuring road safety» should be positioned as an integral element and component of the overall public safety system within the framework of national security, which synchronizes the provisions of the National Security Strategy of Ukraine with the current organizational and legal form of implementation of state policy aimed at improving road safety.

In this regard, road safety should be included as one of the areas of activity of the state authorities in the National Security Strategy. It is advisable to include the issue of strategic planning of this activity in one of the areas of responsibility of the National Security and Defense Council of Ukraine. This approach will make it possible to implement the requirement of the legislation on the responsibility of road safety system entities for the accident rate in the country: ensuring road safety as measures to prevent road traffic hazards; ensuring road safety as measures to guarantee the protection of the rights of road users and the stability of their implementation; implementation of legal norms in the field of road safety; ensuring road safety as a component of the institution of public order (in terms of reducing road traffic hazards); ensuring road safety as a type of national security.

When formulating the concept of «ensuring road safety», it is advisable to take into account two important factors. First, road safety is cross-sectoral in nature, as there are several objects of legal regulation of road safety. These are roads, vehicles, people – drivers, pedestrians. A wide range of entities have functions of control and supervision of road safety and the condition of the road network. Second, we need to change the scientific view of road safety.

Legal regulation is based on well-known postulates: a vehicle is a source of increased danger; it is a tool for various offenses; road traffic is seen as something that needs to be protected from threats and dangers. This scientific approach needs to be changed. Road safety should be viewed as a means

of promoting the development of society and the state, improving the well-being of citizens, and only then as a source of offences.

Taking into account the analysis and the factors mentioned above, we can formulate the concept of «road safety». Road safety is a public law category that represents a single process of state management aimed at the development of society and the state, improving the well-being of citizens, regulated by normative legal acts, related to the movement of goods and people, maintaining the level of risk necessary for the stable development of the state, circumstances or obstacles to the continuation of the transport process, damage to vehicles, structures, cargo, or other material damage.

## 5. Conclusions.

The state function of ensuring road safety from the point of view of the functioning of the executive power and local self-government is an interdepartmental function that requires systematic doctrinal understanding and legal regulation. The state function, as a theoretical construct, includes the setting of a specific complex task, the performance of which by state bodies either follows from the essence of the state as a public organization with the aim of observing the general public interest.

There is no unity in the doctrine in understanding the meaning of the concept of road safety. When formulating the definition, characteristics are included that have different bases: prevention of dangers, ensuring guarantees for the protection of the rights of road users, stability of their implementation, a component of the institution of public order, a type of national security.

Road safety is cross-sectoral in nature and is implemented by numerous authorized public authorities. Currently, road safety is ensured to a large extent through the prevention and counteraction of road traffic accidents and is a response to violations in the field of road safety.

It is necessary to change this approach and include other, equally important areas in the sphere of road safety, such as the development of society and the state, and improving the well-being of citizens. These factors should form a system of road safety as an object of public administration.

The state function of ensuring road safety is implemented through: administrative and legal regulation of legal relations in the field of road safety; improvement of the system of technical regulations, rules, standardization documents, technical standards, and other documents in the field of road safety; optimization of the system and competence of state bodies involved in the implementation of the state function of ensuring road safety; improving the efficiency of the organization and implementation of control, supervisory, and licensing functions in the field of road safety; developing international cooperation and synchronizing legislation with international legal norms.

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